

**CUSTOMER NO.: 24737
EXPEDITED PROCEDURE**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of)	Examiner: B. ROY
S. SANJAY-GOPAL, et al.)	
)	Art Unit: 3737
Serial No.: 10/572,776)	
)	Confirmation: 3412
Filed: Marcy 21, 2006)	
)	
For: ENABLEMENT OF QUICK)	
REMOTE ACCESS TO CT)	
SCANS TO IMPROVE)	
WORKFLOW AND PATIENT)	
THROUGHPUT)	
)	
Date of Last Office Action:)	
December 7, 2010)	
)	
Attorney Docket No.:)	Cleveland, OH 44114
US030363US2/PKRZ 2 00796US01)	February 4, 2011

**CONDITIONAL PETITION TO WITHDRAW
THE HOLDING OF CONSTRUCTIVE ELECTION
AND PREMATURE FINALITY**

Mail Stop: AF
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Office Action of December 7, 2010 held claims 15-21 constructively non-elected and made the Office Action Final. Amendment C being filed herewith requests reconsideration of both the constructive election holding and the finality of the Office Action of December 7, 2010.

CERTIFICATE OF ELECTRONIC TRANSMISSION

I certify that this **CONDITIONAL PETITION TO WITHDRAW THE HOLDING OF CONSTRUCTIVE ELECTION AND PREMATURE FINALITY** and accompanying documents in connection with U.S. Serial No. 10/572,776 are being filed on the date indicated below by electronic transmission with the United States Patent and Trademark Office via the electronic filing system (EFS-Web).

Feb 7 2011
Date

Patricia A. Heim
Patricia A. Heim

If, after reconsideration by the Examiner, she adheres to either of these positions, the applicant hereby Petitions for withdrawal of the constructive election holding and for withdrawal of the finality of the December 7, 2010 Office Action.

The December 7, 2010 Office Action being a Final Rejection and the time period for response continuing to run, the applicants request expedited review of this Petition.

The Holding of Constructive Election is Improper

In the Office Action of May 21, 2010, the Examiner made a Restriction Requirement between Group I drawn to an imaging communication **system** and Group II drawn to a **method** of imaging communications, asserting that the method could be carried out by other systems and/or that the system could be used to perform other methods. Claims 15-21 are all dependent system claims which further limit the elected parent system claims. That is, claims 15-21 further refine the system set forth in parent claim 1 in order to add limitations which distinguish more forcefully over the previously applied prior art. Because these dependent claims further limit their parent claims and are properly classified in the Group I elected system claims, it is submitted that the Examiner's holding that claims 15-21 as being non-elected is erroneous and should be withdrawn.

The applicant further traverses the Examiner's assertion that claims 15-21 are distinct from and independent from what the Examiner searched regarding claims 1-10 and 22. Claim 15, for example, adds two elements to the system of claim 1, particularly a diagnostic scanner and a reconstruction processor. Previously examined claim 8, in line 14, calls for a diagnostic scanner. Claim 22, in line 3, also calls for a diagnostic scanner. Thus, the diagnostic scanner limitation has been previously considered by the Examiner and is not distinct or independent from the limitations of claims 1-10 and 22.

Claim 1, at line 3 and numerous lines throughout, claim 8, at lines 3-4, and claim 22, at line 3 and numerous other lines throughout, claims 1-10 and 22 all set forth diagnostic images. Thus, claims 1-10 and 22 include a diagnostic scanner and the diagnostic images generated or reconstructed therefrom. It is submitted that the hardware which converts the output of the diagnostic scanner of the examined claims

into the diagnostic images of the examined claims is commonly called a “reconstruction processor” and that specifying that it is a reconstruction processor which generates the diagnostic images set forth in the examined claims is not and has not been shown to be a distinct and independent invention from the examined claims.

Similarly, claims 16-21 further refine the system of their parent claims by adding analogous limitations or further narrowed analogous limitations to the concepts set forth in the examined claims. Claim 16 sets forth transmitters and receivers in the remote units which further refine the transmitters and receivers of the remote units already present in the previously examined claims. For example, claim 17 calls for a video camera which further refines the electronic camera previously set forth in examined claim 8, and the optical camera previously set forth in examined claim 22. Claim 18 further refines the remote units set forth in the examined claims. Claim 19 calls for a patient records database which the Examiner’s primary reference, Ma, acknowledges as prior art in paragraph [0003], illustrating that the mere addition of a patent records database is not distinct and independent. Claim 20 further refines the remote unit which was previously claimed in examined claims 1-10 and 22. Claim 21 further refines the remote unit which was previously set forth in examined claims 1-10 and 22. Accordingly, it is submitted that the Examiner has not shown that all, or indeed any, of claims 15-21 are distinct or independent from examined claims 1-10 and 22.

It is irrelevant that claims 15-21 had once been in the non-elected method Group by having been method claims. It is submitted that if the same claims had been submitted as new claims, that no issue of constructive election would have been asserted.

Accordingly, it is submitted that the Examiner’s holding of construction election should be withdrawn. A timely examination and consideration of claims 15-21 on the merits is requested.

The Finality of the December 7, 2010 Office Action
Is Premature

Claim 8 was placed in independent form including the subject matter of its parent claims 2 and 1. Because a dependent claim is read as including all of the subject matter of its parent claims, placing a dependent claim in independent form

including the subject matter of its parent claims does not change the scope of the claim. Even though the scope of claim 8 was not altered when it was put in independent form, the Examiner withdrew the prior ground of rejection and issued a new ground of rejection.

Moreover, the Examiner has failed to identify any differences between original claim 8 when read with its original parent claims 1 and 2, which required her to cite new references and necessitated withdrawing the prior ground of rejection and issuing a new ground of rejection. Accordingly, it is submitted that the new grounds of rejection applied against claim 8 was not necessitated by Amendment B.

Claim 8 (Amendment B)	
8. An imaging communication system for communicating between an imaging workstation, from which imaging protocols can be conducted and at which diagnostic images can be displayed, and one or more medical professionals, the workstation being disposed adjacent a scan room, the system comprising:	See claim 1, lines 1-4 and claim 8, lines 1 and ___ as presented in the prior amendment of June 17, 2010.
a means for selecting and addressing one or more medical professionals;	See claim 1, line 5 as presented in the prior amendment of June 17, 2010.
a means for selecting electronic image representations to be sent to the one or more selected medical professionals;	See claim 1, lines 6-7 as presented in the prior amendment of June 17, 2010.
a means for formatting the at least one selected medical professional address and the selected electronic image representations into a wireless transmission format; and	See claim 1, lines 8-10 as presented in the prior amendment of June 17, 2010.
a diagnostic scanner disposed in the scan room;	See claim 8, line 3 as presented in the prior amendment of June 17, 2010
a patient support for supporting a patient in the diagnostic scanner;	See claim 8, line 4 as presented in the prior amendment of June 17, 2010.
an electronic camera disposed in the scan room to view the patient on the patient support, the electronic camera	See claim 8, lines 5-8 as presented in the prior amendment of June 17, 2010.

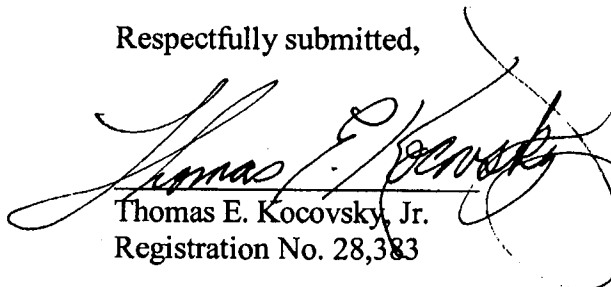
being connected with the formatting means to format electronic pictures from the electronic camera for wireless communication to a selected portable unit;	
a plurality of portable units, each unit including:	See claim 2, line 2 as presented in the prior amendment of June 17, 2010.
a monitor means for generating the human-readable display,	See claim 2, lines 2-3 as presented in the prior amendment of June 17, 2010.
a remote receiving means for receiving wireless transmissions at remote locations,	See claim 1, lines 11-12 as presented in the prior amendment of June 17, 2010.
an address reading means connected with the receiving means for examining each received wireless transmission for a corresponding preselected address, and	See claim 1, lines 13-15 as presented in the prior amendment of June 17, 2010
a video processing means connected with the remote receiving means for, in response to the address reading means finding the corresponding preselected address in the received wireless communication, converting an electronic image portion of the received wireless transmission into an appropriate format for human-readable display.	See claim 1, lines 16-19 as presented in the prior amendment of June 17, 2010.

Accordingly, it is submitted that the citation of three new references against claim 8 was not necessitated by placing claim 8 in independent form in the Amendment of September 23, 2010.

CONCLUSION

An early reversal of the Examiner's holding of constructive election and remand to the Examiner to consider all claims are requested. An early withdrawal of the Finality of the Office Action of December 7, 2010 is requested.

Respectfully submitted,



Thomas E. Kocovsky, Jr.
Registration No. 28,383

FAY SHARPE LLP
The Halle Building, 5th Floor
1228 Euclid Avenue
Cleveland, OH 44115-1843
Telephone: 216.363.9000 (main)
Telephone: 216.363.9122 (direct)
Facsimile: 216.363.9001
E-Mail: tkocovsky@faysharpe.com

Attachment:

Claims 1, 2, and 8 from the Amendment of June 17, 2010

1. (Previously Presented) An imaging communication system for communicating between an imaging workstation, from which imaging protocols can be conducted and at which diagnostic images can be displayed, and one or more medical professionals, the system comprising:

5 a means for selecting and addressing one or more medical professionals;
 a means for selecting electronic image representations to be sent to the one
or more selected medical professionals;

10 a means for formatting the at least one selected medical professional
address and the selected electronic image representations into a wireless transmission
format;

a plurality of remote receiving means for receiving wireless transmissions at remote locations;

an address reading means connected with each of the plurality of receiving means for examining each received wireless transmission for a corresponding
15 preselected address; and

a video processing means connected with each remote receiving means or, in response to the address reading means finding the corresponding preselected address in the received wireless communication, converting an electronic image portion of the received wireless transmission into an appropriate format for human-readable display.

2. (Previously Presented) The system as set forth in claim 1, further including:

a plurality of portable units, each unit including a monitor means for generating the human-readable display; and one of:

the receiving means,
5 a corresponding address reading means, and
a corresponding video processing means.

8. (Previously Presented) The system as set forth in claim 2, wherein the workstation is disposed adjacent a scan room and further including:

a diagnostic scanner disposed in the scan room;

a patient support for supporting a patient in the diagnostic scanner; and

5 an electronic camera disposed in the scan room to view the patient on the patient support, the electronic camera being connected with the formatting means to format electronic pictures from the electronic camera for wireless communication to a selected portable unit.